

Applicant: T. Okumura et al.  
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**Amendment to the Drawings**

The attached sheet of drawings includes changes to Fig. 8. This sheet, which includes Figs. 7-8, replaces the original sheet including Figs. 7-8.

### **REMARKS**

Applicants appreciate the Examiner's thorough examination of the subject application and request reconsideration of the subject application based on the foregoing amendments and the following remarks.

Claims 1-40 are pending in the subject application.

Claims 1-15, 8-34 and 37-40 are acknowledged as being allowable by the Examiner.

Claims 16-17<sup>1</sup> and 35-36 stand rejected under 35 U.S.C. §101, 35 U.S.C. §112, first paragraph, and/or 35 U.S.C. §112, second paragraph.

Claims 16-17 and 35-36 were canceled in the foregoing amendment and replaced by claims 41-44 respectively. In particular claims 41 and 42 were written so as to provide that the program is for execution on a computer. As discussed herein, such amendments are supported by the originally filed application.

Claims 4, 5, 7, 9-13, 20, 23, 30-33, 38 and 39 were amended to add punctuation at the end of the preamble.

The amendments to the claims are supported by the originally filed disclosure.

The specification was objected to under 37 C.F.R. §1.77, because the application did not include a cross-reference to the Japanese applications from which priority is claimed. The specification was amended to add a cross-reference to the Japanese applications to which the

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<sup>1</sup> Although the Office Action Summary provides that claims 15-16 were being rejected, the discussion on pages 2 and 3 of the Office Action clearly indicates that it is claims 16 and 17 which are canceled and claim 15 is allowable.

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subject application claims priority. The drawing figures were objected to and correction required. Enclosed herewith is an amended drawing figure that address the drawing objections.

The amendments to the specification/ drawing figures do not introduce new matter because they either are editorial in nature or are supported by the originally filed disclosure.

### 35 U.S.C. §101 & §112, REJECTIONS

Claims 16 and 35 stand rejected under 35 U.S.C. §101 as provided on the pages 2-3 of the above-referenced Office Action. In particular, it asserted that these claims are directed to computer programs per se and thus is not directed to statutory subject matter. Claims 16-17 and 35-36 stand rejected under 35 U.S.C. §112 first paragraph and sixth paragraphs as provided on page 3 of the Office Action. Applicants respectfully traverse.

As indicated herein, claims 16-17 and 35-36 were canceled and replaced by claims 41-44 respectively.

Claims 41 and 43, which replace claims 16 and 35, were written so as to claim a computer program for execution on a computer. As provided on pages 60-61 of the subject application for example, it is provided that a waveform equalizing device can be constructed of hardware or a software. It also is provided that a waveform equalizing device less certain functionalities, can be constructed of a computer including a CPU executing instructions in a waveform equalization program implementing the functions of the device. It is further provided that the present invention is achievable by loading into the computer a computer-readable storage

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medium storing program codes of a waveform equalization program and causing the computer to read and execute the program codes recorded on the storage medium. A similar discussion is provided on pages 103-104 regarding the signal quality evaluation section.

It is respectfully submitted that claims 41 and 43 as written thus satisfy the requirements of 35 U.S.C. §§101,112.

As to claims 42 and 44, these claims were written so as to claim the program in more detail instead of referring to the means of the device claims.

It is respectfully submitted that claims 42 and 44 as written thus satisfy the requirements of 35 U.S.C. §§112. As these claims do not make reference to “means” language, Applicants do not believe that the rejection under 35 U.S.C. §112, sixth paragraph need be addressed further herein

Accordingly, claims 41-44 satisfy the requirements of 35 U.S.C. §101, §112, first paragraph and, therefore, these claims are allowable and the specification is considered acceptable.

#### OTHER CLAIM AMENDMENTS

While preparing the within response, Applicants noticed that the preamble for some claims (claims 4, 5, 7, 9-13, 20, 23, 30-33, 38 and 39) included a transitional phrase (*e.g.*, comprising, further comprising) that was not followed by punctuation (*e.g.*, a colon). Each of

these claims were amended in the foregoing amendment so a colon (:) follows the transitional phrase.

#### SEPCIFICATION/DRAWING OBJECTIONS

The Examiner objected to the specification of the subject application because the application did not include a cross-reference to the related Japanese patent application(s) which the subject application claimed priority.

Applicants do not believe that an express cross-reference to a foreign application to which priority is claimed needs to be provided in the text of a patent application<sup>2</sup>. Notwithstanding this and in the interests of advancing prosecution, Applicants are amending the subject application to cross-reference to the Japanese patent applications listed in the declaration to which priority is being claimed.

It also was indicated in the Office Action, that Fig. 8 and the discussion regarding this figure in page 45 was inconsistent. As indicated herein, Fig. 8 was amended to address this objection. More specifically, Fig. 8 was amended to be consistent with the discussion on page 45 of the subject application.

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<sup>2</sup> An application should include a cross-reference to related US provisional applications, US non-provisional applications or PCT international applications designating the US as described in connection with 37 C.F.R. §1.78. MPEP -201.11 provides that if reference to these related applications is missing from the specification (and the data sheet if one is filed), then the Examiner should call this to an applicant's attention in an office action. The rule for making a claim for foreign priority [37 C.F.R. §1.55], however, does not require that the claim be set forth in the cross-noting paragraph of the specification.

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It is respectfully submitted that for the foregoing reasons, the specification and drawing figures satisfies applicable Patent laws and rules and, therefore is considered acceptable.

It is respectfully submitted that the subject application is in a condition for allowance.  
Early and favorable action is requested.

Because the total number of claims and/or the total number of independent claims post amendment now exceed the highest number previously paid for, authorization is provided herewith to charge the below-identified deposit account for the required additional fees.  
However, if for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, the Commissioner is hereby authorized and requested to charge Deposit Account No. **04-1105**.

Respectfully submitted,  
Edwards & Angell, LLP

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